

Debra P. Hackett
Clerk, U.S. District Court
15 LEE ST STE 206
MONTGOMERY AL 36104-4055

May 14, 2008

Appeal Number: 08-11163-D

Case Style: Richard Wayne Wright, Sr. v. Sylvester Nettles
District Court Number: 05-00439 CV-WSH

TO: Debra P. Hackett

CC: Richard Wayne Wright, Sr. (AIS 187140)

CC: Douglas B. Hargett

CC: William R. Lunsford

CC: Brian Jason Richardson

CC: Gregory F. Yaghmai

CC: William A. Scott, Jr.

CC: David Berman Block

CC: Steven Mallette Sirmon

CC: Hugh Davis

CC: Nicholas Paul Hebert

CC: Administrative File

United States Court of Appeals

Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Thomas K. Kahn
Clerk

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The enclosed certified copy of this Court's Order of Dismissal is issued as the mandate of this court. See 11th Cir. R. 41-4. Counsel and pro se parties are advised that pursuant to 11th Cir. R. 27-2, "a motion to reconsider, vacate, or modify an order must be filed within 21 days of the entry of such order. No additional time shall be allowed for mailing."

Sincerely,

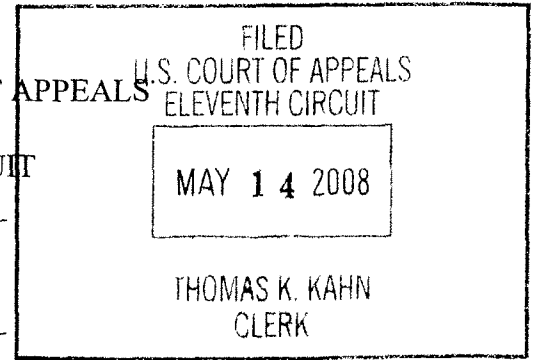
THOMAS K. KAHN, Clerk

Reply To: Nancy Holbrook (404) 335-6183

Encl.

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 08-11163-D



RICHARD WAYNE WRIGHT, SR.,

Plaintiff-Appellant,

versus

SYLVESTER NETTLES, Captain,
DR. HAMMER, et al.,

Defendants-Appellees.

Appeal from the United States District Court for the
Middle District of Alabama

Before **BIRCH, DUBINA and MARCUS, Circuit Judges.**

BY THE COURT:

The appellant, in the district court, filed a notice of appeal and a motion to proceed on appeal in forma pauperis. The district court determined that appellant was indigent and assessed the \$455.00 appellate filing fee pursuant to the Prison Litigation Reform Act of 1995 (April 26, 1996); see 28 U.S.C. § 1915 (as amended). The district court then certified that this appeal is frivolous and not taken in good faith. The appellant also has filed a motion for a certificate of appealability and leave to proceed on appeal in forma pauperis before this Court, which we collectively construe as a motion for leave to proceed on appeal in forma pauperis.

A True Copy - attested:
Clerk, U.S. Court of Appeals,
Eleventh Circuit

Nancy Nicolson
Deputy Clerk
Atlanta, Georgia

Because the district court already has determined that the appellant is indigent and has instituted a partial payment plan under 28 U.S.C. § 1915(a) & (b) (as amended), the only remaining question is whether the appeal is frivolous. See § 1915(e)(2)(B)(i). This Court now finds that the appeal is frivolous, DENIES leave to proceed, and DISMISSES the appeal.